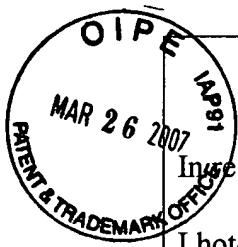


IFW



**PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: :  
 Lhote et al. : Art Unit: Not yet assigned  
 Serial No. 10/564,366 : Examiner: Not yet assigned  
 I.A. Filing Date: 12/06/2004 : Atty Dkt: 6222.480  
 For: PRESSURE RELIEF EXHAUST BRAKE

**RENEWED PETITION UNDER 37 C.F.R. 1.47(a)**  
**FOR NONSIGNING INVENTOR**

Assistant Commissioner for Patents  
 Customer Service Window, Mail Stop PCT  
**Office of PCT Legal Administration**  
 Randolph Building  
 401 Dulany Street  
 Alexandria, VA 22314

Dear Sir:

Applicants respectfully request reconsideration of the Petition by Gabriel Gavril on his behalf, and on behalf of non-signing co-inventor Andre F. Lhote, filed July 10, 2006.

Applicants' Petition was denied without prejudice by Decision issued January 31, 2007. In the Decision, the PCT Legal Examiner requested clarification as to whether any of the letters were sent to Mr. Lhote's last known address. The Examiner also objected to the statements by Ms. Cathy Hailey, which were described in an email from Ryan Marander. The Examiner suggested that a statement from Ms. Hailey would be appropriate.

In response to the Decision on Petition, Applicants submit a Supplemental Declaration of William C. Schrot clarifying which letters were sent to Mr. Lhote's last known address, and providing an explicit statement of the last known address of Mr. Lhote.

In addition, Applicants submit the Declaration of Catherine Anne Ross, to whom Mr. Lhote stated that he would not sign the declaration. Specifically, Mr. Lhote hand-delivered a Federal Express package containing a copy of the application and declaration to Ms. Ross, and stated to Ms. Ross, "I can't sign this." *See Ross Dec.*, ¶ 2. Note that at the time Mr. Lhote handed the package to Ms. Ross, and at the time the original Petition was filed in July 2006, Ms. Ross's last name was "Hailey". *See Ross Dec.*, ¶ 3. Thus, the "Ms. Hailey" referenced in Applicants' initial Petition is the same person as "Ms. Ross."

In addition to Federal Express's delivery of the June 21, 2006 package to Mr. Lhote's last known address, the undersigned also sent an additional copy of the application and declaration to Mr. Lhote's last known address by letter dated July 5, 2006. *See 7/10/2006 Schrot Dec. at Exhibit G.* Mr. Lhote was again asked to sign the declaration, and return same to the undersigned's office in the postage-paid addressed envelop provided. *Id.*

Following the Decision on Petition, an additional copy of the application and declaration were sent Mr. Lhote's last known address by Federal Express by letter dated February 23, 2007. *See Supp. Schrot Dec. at Exhibit I.* Mr. Lhote was again asked to sign the declaration, and return same to the undersigned's office in the postage-paid addressed envelop provided. *Id.*

Further correspondence was sent to Mr. Lhote's last known address by Federal Express by letter dated March 12, 2007, specifically asking Mr. Lhote to sign and date the enclosed declaration, and return to the undersigned's office no later than March 23, 2007. *See Supp. Schrot Dec. at Exhibit J.*

Thus, at least three copies of the application were sent to Mr. Lhote's last known address of 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, by letters dated June 21, 2006, July 5, 2006, and February 23, 2007.

At least four copies of the declaration were sent to Mr. Lhote's last known address in the letters dated June 21, 2006, July 5, 2006, February 23, 2007, as well as a final letter dated March 12, 2007. In all of these letters, it was requested that Mr. Lhote sign and date the declaration, and return to the undersigned's office in a post paid, addressed envelop provided.

Following receipt of the June 21, 2006 letter and Federal Express package (containing a copy of the application and declaration), Mr. Lhote hand-returned same to Pacbrake and stated to Ms. Ross (formerly Ms. Hailey), "I can't sign this." *See Ross Dec., ¶ 2.*

It is without question that Mr. Lhote has received numerous copies of the application and declaration at his last known address, and refuses to sign the declaration despite having already assigned his rights in the invention to Jenera (the parent of Pacbrake). See 7/10/2007 Schrot Dec. at ¶¶5-6; Ross Dec. at ¶ 1. He has personally stated this to Ms. Ross (formerly Ms. Hailey). See Ross Dec., ¶ 2.

The Examiner stated that the supplemental Declaration signed by inventor Gabriel Gavril on behalf of Andre Lhote was acceptable. In addition, the Examiner acknowledged payment of the Petition fee.

In light of the circumstances, Applicant submits that all requirements under 37 C.F.R. §1.47(a) have been met. Accordingly, Applicants hereby renew their Petition and request that Mr. Gavril be permitted to make the application on behalf of Mr. Lhote pursuant to 37 C.F.R. §§ 1.497(b) and 1.47(a).

Reconsideration of Applicant's Petition is requested. It is believed that no fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,



William C. Schrot  
Registration No. 48,447  
Attorney for Applicants

**Berenato, White & Stavish, LLC**  
6550 Rock Spring Drive, Suite 240  
Bethesda, Maryland 20817  
Telephone: (301) 896-0600  
Facsimile: (301) 896-0607  
Email: [wschrot@bwslplaw.com](mailto:wschrot@bwslplaw.com)



**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	:			
Lhote et al.	:	Art Unit:	Not yet assigned	
Serial No.	10/564,366	:	Examiner:	Not yet assigned
I.A. Filing Date:	12/06/2004	:	Atty Dkt:	6222.480
For:	PRESSURE RELIEF EXHAUST BRAKE			

**SUPPLEMENTAL DECLARATION OF WILLIAM C. SCHROT IN SUPPORT  
OF RENEWED PETITION FOR NON-SIGNING INVENTOR**

I, William Schrot, hereby declare as follows:

1. I am an attorney associated with the law firm of Berenato, White & Stavish, LLC, and am familiar with the above-captioned application.
2. By letter dated June 21, 2006, I sent a copy of the application and declaration to Mr. Lhote at an address at 2992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, via Federal Express. *See 7/10/2006 Schrot Dec. at Exhibit E.*
3. Our firm was contacted by Federal Express indicating that the address for the letter dated June 21, 2006 was incorrect. I provided a corrected address of 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, to Federal Express. *See 7/10/2006 Schrot Dec. at Exhibit F.*
4. Mr. Lhote's last known address is 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada.
5. Federal Express re-delivered the June 21, 2006 letter, including a copy of the application and declaration, to Mr. Lhote's last known address. *See 7/10/2006 Schrot Dec. at Exhibit F.*
6. I spoke with Ms. Catherine Anne Ross by telephone conference on March 23, 2007. Ms. Ross stated to me that she recalled Mr. Lhote hand-delivering a Federal Express package to her in late June 2006 containing a copy of the application and declaration, and stating to her "I can't sign this." Ms. Ross's declaration attesting to same is submitted herewith. *See Ross Dec.*

7. Another copy of the application and declaration were sent to Mr. Lhote's last known address by Federal Express by letter dated July 5, 2006, wherein Mr. Lhote was again asked to sign and date the declaration and return same to the undersigned's office in the postage paid, addressed envelop provided. *See 7/10/2007 Schrot Dec. at Exhibit G.*
8. Another copy of the application and declaration were sent to Mr. Lhote's last known address by Federal Express by letter dated February 23, 2007, wherein Mr. Lhote was again asked to sign and date the declaration and return to the undersigned's office in the postage paid, addressed envelop provided. *See Exhibit I attached hereto.*
9. An additional copy of the declaration was sent to Mr. Lhote's last known address by Federal Express by letter dated March 12, 2007, wherein Mr. Lhote was again asked to sign and date the declaration and return to the undersigned's office in the postage paid, addressed envelop provided no later than March 23, 2007. *See Exhibit J attached hereto.*
10. To date, Mr. Lhote has failed to provide an executed declaration for the subject application.
11. Mr. Lhote has expressly stated to Pacbrake's Purchasing Manager that he will not sign the declaration. *See Ross Dec.*
12. In light of Mr. Lhote's failure to sign the declaration, we request that Mr. Gavril be permitted to proceed with application Serial No. 10/564,366 on behalf of non-signing co-inventor Andre F. Lhote pursuant to 37 C.F.R. §§ 1.497(b) and 1.47(a).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



---

William C. Schrot

Dated: March 26, 2007



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: :

Lhote et al. : Art Unit: Not yet assigned

Serial No. 10/564,366 : Examiner: Not yet assigned

I.A. Filing Date: 12/06/2004 : Atty Dkt: 6222.480

For: PRESSURE RELIEF EXHAUST BRAKE

**EXHIBIT I**

# BERENATO, WHITE & STAVISH

ATTORNEYS AT LAW

A LIMITED LIABILITY COMPANY

6550 ROCK SPRING DRIVE

SUITE 240

BETHESDA, MARYLAND 20817

TELEPHONE: (301) 896-0600

FACSIMILE: (301) 896-0607

WWW.BWSIPLAW.COM

VIRGINIA OFFICE  
P. O. Box 315  
WATERFORD, VA 20197

♦ OF COUNSEL  
\* NOT ADMITTED IN MD

JOSEPH W. BERENATO, III \*  
JOHN M. WHITE ♦  
MATTHEW W. STAVISH  
MATTHEW F. JOHNSTON  
WILLIAM C. SCHROT \*  
DAVID S. TAYLOR

GEORGE AYAZOV, PH.D.  
REG. PATENT AGENT



February 23, 2007

## Via Federal Express

Mr. Andre F. Lhote  
4992 Byrne Road  
Burnaby, British Columbia V5J 3H9  
Canada

Re: International Patent Application No. PCT/CA04/02080  
(U.S. Application Serial No. 10/564,366)  
Title: Pressure Relief Exhaust Brake  
Our Ref: 6222.480

Dear Mr. Lhote:

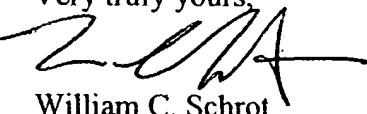
Several copies of the above-referenced patent application were previously sent to you via Federal Express, along with copies of a Declaration for your signature as co-inventor.

We have not yet received the executed Declaration. Please sign and date the Declaration, and return the executed Declaration to our office.

For your convenience, enclosed is another copy of the subject patent application, along with another copy of the Declaration. Also enclosed is a postage paid, addressed envelop in which the executed Declaration may be sent. If you are unwilling to sign the Declaration, please so state by written correspondence and return to our office in the enclosed postage paid envelop.

Should you have any questions regarding the above, please do not hesitate to contact our office.

Very truly yours,



William C. Schrot

Enclosures

From: Origin ID: OBTA (301) 896-0600  
 William Schrol  
 Berenato, White & Slavish  
 6550 Rock Spring Drive  
 Suite 240  
 Bethesda, MD 20817  
 UNITED STATES



Ship Date: 23FEB07  
 ActWgt: 1 LB  
 System#: 1083344/INET2600  
 Account#: S \*\*\*\*\*

TotWgt: 1 LB

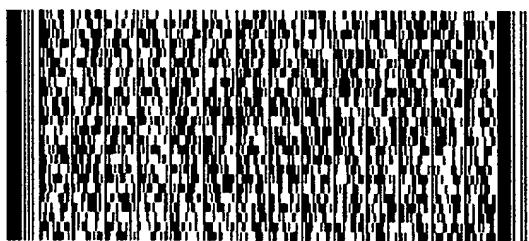
REF: 6222.480  
 DESC-1: Business Correspondence  
 DESC-2:  
 DESC-3:  
 DESC-4:  
 EEI: NO EEI 30.36  
 COUNTRY MFG: US  
 CARRIAGE VALUE: 10.00 USD  
 CUSTOMS VALUE: 10.00 USD  
 T/C: S 020062207 D/T: R  
 SIGN: William Schrol  
 EIN/VAT:

SHIP TO: (301) 896-0600

BILL SENDER

Andre F. Lhote

4992 Byrne Road

Burnaby, BC V5J3H9  
CA

These commodities, technology, or software were exported from the United States in accordance with the export administration regulations. Diversion contrary to United States law prohibited.

The Warsaw Convention may apply and will govern and in most cases limit the liability of Federal Express for loss or delay of or damage to your shipment. Subject to the conditions of the contract.

CONSIGNEE COPY - PLEASE PLACE IN POUCH

INTL ECON ENVELOPE

TRK# 7912 3874 2877

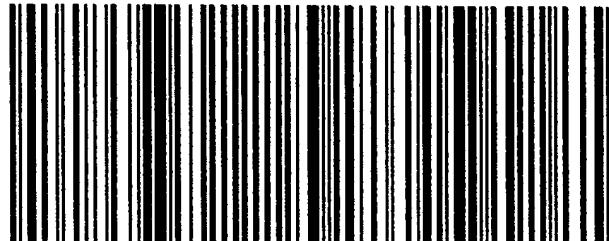
FORM  
0430

YVR A2

V5J3H9

-BC-CA

S8 YVRA



### Shipping Label: Your shipment is complete This shipping label constitutes the air waybill for this shipment.

1. Use the "Print" feature from your browser to send this page to your laser or inkjet printer. Fold the printed page along the horizontal line.

2. Place 2 originals of the shipping label in the pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional charges, along with the cancellation of your FedEx account number.

LEGAL TERMS AND CONDITIONS OF FEDEX SHIPPING DEFINITIONS. On this Air Waybill, "we", "our", "us", and "FedEx" refer to Federal Express Corporation, its subsidiaries and branches and their respective employees, agents, and independent contractors. The terms "you" and "your" refer to the shipper, its employees, principals and agents. If your shipment originates outside the United States, your contract of carriage is with the FedEx subsidiary, branch or independent contractor who originally accepts the shipment from you. The term "package" means any container or envelope that is accepted by us for delivery, including any such items tendered by you utilizing our automated systems, meters, manifests or waybills. The term "shipment" means all packages which are tendered to and accepted by us on a single Air Waybill. AIR CARRIAGE NOTICE: For any international shipments by air, the Warsaw Convention, as amended, may be applicable. The Warsaw Convention, as amended, will then govern and in most cases limit FedEx's liability for loss, delay of, or damage to your shipment. The Warsaw Convention, as amended, limits FedEx's liability. For example in the U.S. liability is limited to \$9.07 per pound (20¢ per kilogram), unless a higher value for carriage is declared as described below and you pay any applicable supplementary charges. The interpretation and operation of the Warsaw Convention's liability limits may vary in each country. There are no specific stopping places which are agreed to and FedEx reserves the right to route the shipment in any way FedEx deems appropriate. ROAD TRANSPORT NOTICE: Shipments transported solely by road to or from a country which is a party to the Warsaw Convention or the Contract for the International Carriage of Goods by Road (the "CMR") are subject to the terms and conditions of the CMR, notwithstanding any other provision of this Air Waybill to the contrary. For those shipments transported solely by road, if a conflict arises between the provisions of the CMR and this Air Waybill, the terms of the CMR shall prevail. LIMITATION OF LIABILITY: If not governed by the Warsaw Convention, the CMR, or other international treaties, laws, other government regulations, orders, or requirements, FedEx's maximum liability for damage, loss, delay, shortage, misdelivery, nondelivery, misinformation or failure to provide information in connection with your shipment is limited by this Agreement and as set out in the terms and conditions of the contract of carriage. Please refer to the contract of carriage set forth in the applicable FedEx Service Guide or its equivalent to determine the contractual limitation. FedEx does not provide cargo liability or all-risk insurance, but you may an additional charge for each additional U.S. \$100 (or equivalent local currency for the country of origin) of declared value for carriage. If a higher value for carriage is declared and the additional charge is paid, FedEx's maximum liability will be the lesser of the declared value for carriage or your actual damages. LIABILITIES NOT ASSUMED: IN ANY EVENT, FEDEX WON'T BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL IN EXCESS OF THE DECLARED VALUE FOR CARRIAGE (INCLUDING BUT NOT LIMITED TO LOSS OF INCOME OR PROFITS) OR THE ACTUAL VALUE OF THE SHIPMENT, IF LOWER. WHETHER OR NOT FEDEX HAD ANY KNOWLEDGE THAT SUCH DAMAGES MIGHT BE INCURRED. FedEx won't be liable for your acts or omissions, including but not limited to incorrect declaration of cargo, improper or insufficient packaging, securing, marking or addressing of the shipment, or for the acts or omissions of the recipient or anyone else with an interest in the shipment or violations by any party of the terms of this agreement. FedEx won't be liable for damage, loss, delay, shortage, misdelivery, nondelivery, misinformation or failure to provide information in connection with shipments of cash, currency or other prohibited items or in instances beyond our control, such as acts of God, perils of the air, weather conditions, mechanical delays, acts of public enemies, war, strike, civil commotion, or acts or omissions of public authorities (including customs and health officials) with actual or apparent authority. NO WARRANTY: We make no warranties, express or implied. CLAIMS FOR LOSS, DAMAGE OR DELAY: ALL CLAIMS MUST BE MADE IN WRITING AND WITHIN STRICT TIME LIMITS. SEE OUR TARIFF, APPLICABLE FEDEX SERVICE GUIDE, OR STANDARD CONDITIONS OF CARRIAGE FOR DETAILS. The Warsaw Convention provides specific written claims procedures for damage, delay or non-delivery of your shipment. Moreover, the interpretation and operation of the Warsaw Convention's claims provisions may vary in each country. Refer to the Convention to determine the claims period for your shipment. The right to damages against us shall be extinguished unless an action is brought within two years, as set forth in the Convention. FedEx is not obligated to act on any claim until all transportation charges have been paid. The claim amount may not be deducted from the transportation charges. If the recipient accepts the shipment without noting any damage on the delivery record, FedEx will assume the shipment was delivered in good condition. In order for us to consider a claim for damage, the contents, original shipping carton and packing must be made available to us for inspection. MANDATORY LAW: Insofar as any provision contained or referred to in this Air Waybill may be contrary to any applicable international treaties, laws, government regulations, orders or requirements such provisions shall remain in effect as a part of our agreement to the extent that it is not overridden. The invalidity or unenforceability of any provisions shall not affect any other part of this Air Waybill. Unless otherwise indicated, FEDERAL EXPRESS CORPORATION, 2005 Corporate Avenue, Memphis, TN 38132, USA, is the first carrier of this shipment. Email address located at [www.fedex.com](http://www.fedex.com)

**PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	:		
Lhote et al.	:	Art Unit:	Not yet assigned
Serial No.	10/564,366	Examiner:	Not yet assigned
I.A. Filing Date:	12/06/2004	Atty Dkt:	6222.480
For:	PRESSURE RELIEF EXHAUST BRAKE		

**EXHIBIT J**

# BERENATO, WHITE & STAVISH

JOSEPH W. BERENATO, III\*  
JOHN M. WHITE\*  
MATTHEW W. STAVISH  
MATTHEW F. JOHNSTON  
WILLIAM C. SCHROT\*  
DAVID S. TAYLOR  
DANIEL E. VALENCIA\*  
SHANNON D. SCHEMEL\*  
  
GEORGE AYVAZOV, PH.D.  
REG. PATENT AGENT



ATTORNEYS AT LAW  
A LIMITED LIABILITY COMPANY  
6550 ROCK SPRING DRIVE  
SUITE 240  
BETHESDA, MARYLAND 20817  
TELEPHONE: (301) 896-0600  
FACSIMILE: (301) 896-0607  
WWW.BWSIPLAW.COM

VIRGINIA OFFICE  
P. O. Box 315  
WATERFORD, VA 20197

\* OF COUNSEL  
\* NOT ADMITTED IN MD

March 12, 2007

**Via Federal Express**

Mr. Andre F. Lhote  
4992 Byrne Road  
Burnaby, British Columbia V5J 3H9  
Canada

Re: International Patent Application No. PCT/CA04/02080  
(U.S. Application Serial No. 10/564,366)  
Title: Pressure Relief Exhaust Brake  
Our Ref: 6222.480

Dear Mr. Lhote:

Referring to our letter of February 23, 2007, we have not yet received the executed Declaration previously sent.

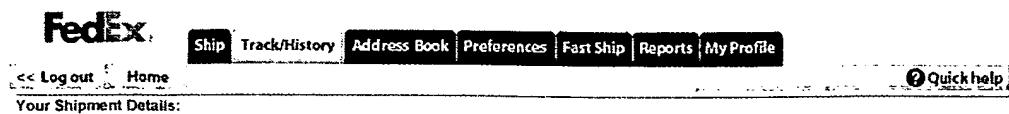
We again request that you sign and date the Declaration, and return same to our office by **March 23, 2007**. A copy of the Declaration is enclosed.

Should you have any questions regarding the above, please do not hesitate to contact our office.

Very truly yours,

William C. Schrot

Enclosure



&lt;&lt; Log out Home

Quick help

Your Shipment Details:

Ship to:	Andre F. Lhole 4992 Byrne Road Burnaby, BC V5J3H9 CA 301-896-0600	Package type: Pickup/Drop Off: Weight: Dimensions: Declared value: Shipper account number: Bill transportation to: Bill duty/taxes to: Courtesy rate quote: Discounted variable % Special services: Shipment Purpose: Shipment type:	FedEx Envelope give to scheduled courier at my location 1 LBS 0 x 0 x 0 in 10 USD 20062207 20062207 0 33 0.00 Express
From:	Joseph Berenato, III Berenato, White, & Stavish 6550 Rock Spring Drive Suite 240 Bethesda, MD 20817 US 3018960600		
Tracking no:	798627614600		
Your reference:	6222.480		
Ship date:	Mar 13 2007		
Service type:	International Priority		

**Print****Return to History** **Track shipment****Please note**

\*The courtesy rate shown here may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim.

Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lhote et al. : Art Unit: Not yet assigned  
Serial No. 10/564,366 : Examiner: Not yet assigned  
I.A. Filing Date: 12/06/2004 : Atty Dkt: 6222.480  
For: PRESSURE RELIEF EXHAUST BRAKE

DECLARATION OF CATHERINE ANNE ROSS IN SUPPORT  
OF PETITION FOR NON-SIGNING INVENTOR

I, Catherine Anne Ross, hereby declare as follows:

1. I am currently the Purchasing Manager of Pacbrake Company of Surrey, British Columbia, a wholly owned subsidiary of Jenara Enterprises Ltd., also of Surrey, British Columbia.
2. In or around late June, 2006, Mr. Andre Lhote, handed me a Federal Express package containing a copy of the above-referenced application, stating "I can't sign this". After handing me the package, Mr. Lhote left.
3. At the time Mr. Lhote handed me the package, my last name was "Hailey".
4. I have been advised that Mr. Lhote refuses to sign the declaration for the above-referenced patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
\_\_\_\_\_  
Catherine Anne Ross

Dated: 3/23/07.